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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,207	09/28/2001	Anthony William Brassington	U 013543-1	8406
140	7590	09/02/2004	EXAMINER	
LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023			CASTELLANO, STEPHEN J	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 09/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/889,207

Applicant(s)

BRASSINGTON, ANTHONY  
WILLIAM

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-33 and 35-37 is/are rejected.
- 7) ☒ Claim(s) 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-31 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over British reference No. ('363) to Jorger (Jorger) in view of WIPO reference No. ('401) to Mader (Mader), Teeter and Bonallack et al. (Bonallack).

For claims 24 and 26, Jorger discloses a top rail (1) installed on an insulated double-skinned freight container having foam insulation between the skins, the rail forming a junction between an outer skin of a side wall and an outer skin of a roof panel, the rail comprising a first vertical web portion attached to the side wall outer skin, an inwardly inclined second web at a first obtuse angle of between 140-160 degrees to the first web portion and a third horizontal web portion attached to the roof panel outer skin, the rail adapted to be welded, the third web being inwardly inclined at a second obtuse angle to the second web portion. Jorger discloses the invention except for the inwardly extending return portion at an edge of the third web portion remote from the second web portion embedded in the foam insulation. Mader teaches a corner or edge rail (1346) in Fig. 13, this rail has first, second and third web portions arranged at a similar obtuse angle configuration, the first and third web portions include portion (1342) return portions (1344) are connected to the first and third web portions at an edge of the first and third web portions remote from the second web portion. Teeter teaches a configuration in Fig. 8 where a corner piece 66 provides embedded flange portions 67, 68 as is best understood by referring to column 8, lines 44-49 which states that the space 70 confined by the corner piece

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may be filled with insulating material. Bonallack teaches a horizontal extruded hollow section 23 has shown in fig. 1 with return portions embedded in the foam insulations of 6 and 19. It would have been obvious to add a return portions to the third web portion and the first web portion to add further strength and stability to the rail to resist impact and wear of the rail.

For claim 25, it would have been obvious to add an inwardly extending further web portion by adding portions 1342 and 1344 to the first web portion, portion 1344 acting as the further web portion perpendicular to the first web portion to add further strength and stability to the rail to resist impact and wear of the rail.

For claim 26, if it should be deemed that the obtuse angle is not between 140-160 degrees, the angle is sufficiently close. There is no criticality placed on this specific range of the angle. Therefore, it would have been obvious to modify the angle to be between 140 – 160 degrees in order to provide a smooth transition from the first web to the second web on the side wall to prevent sharpness at this juncture to prevent damage to adjacent containers.

For claims 27 and 30, longitudinal beads and notches are shown by Fig. 1, 2, 10 and 11 of Mader. It would have been obvious to provide longitudinal beads and notches to provide a reinforcement for the rail and to provide an anchoring element for insulation situated between the rail and the inner wall of the container.

For claim 31, the third web extends in the foam insulation as shown in Fig. 2, 2a, 4, 4a, 5, 5a and 6.

For claim 28, aluminum is a well known structural material. It would have been obvious to modify the material of the metal rail and side wall and roof panel outer skins to be aluminum when a strong yet lightweight material is desired in order to reduce weight.

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Claims 24-31 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonallack in view of Jorger.

Bonallack discloses a top rail 23 for an insulated double-skinned freight container having foam insulation between the skins, the top rail has a first vertically oriented web portion attached to the sidewall, a second curved web portion, a third horizontally oriented web portion attached to the roof, and two return portions, one attached to the first web portion and one attached to the third web portion. Bonallack discloses the invention except for the first and second obtuse angles. Jorger teaches top rail 1 with first, second and third web portions and with first and second obtuse angles. It would have been obvious to add the first and second obtuse angles as a matter of design choice as motivated by the reinforcing effect the angled portions has on the structure of the top rail to resist impact from adjacent containers or other objects as the freight container is moved.

Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over [Jorger in view of Mader, Teeter and Bonallack] and [Bonallack in view of Jorger] as applied to claim 25 above, and further in view of Handcock (British reference No. 2,180,802).

The combinations disclose the invention except for the location of the further web portion (second return portion) as being in proximity to the second web portion. Handcock discloses a first web portion (14), a second web portion 15 and a third web portion 16 wherein a further web portion (17) or second return portion is located on the first web portion in proximity to the second web portion. It would have been obvious to move the further web portion to closer proximity to the second web portion to provide support to the top rail at a position close to the

first obtuse angle as this area is more susceptible to impact from the side and is more in need of reinforcement and reinforcing support.

Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed May 19, 2004 have been fully considered but they are not persuasive. Applicant argues that none of the cited and applied references discloses embedding the return portion in foam insulation. Bonallack discloses the embedding of return portions in foam insulation.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3727

sjc